
HOUSE BILL No. 1424

DIGEST OF INTRODUCED BILL

Citations Affected: IC 26-1-4-406.

Synopsis: Bank statements of account. Prohibits a bank from charging a customer for either: (1) returning or making available to the customer an item paid by the bank from the customer's account; or (2) providing the customer with sufficient information in the statement of account to enable the customer to identify the items paid. Provides that for a statement of account to provide sufficient information to identify the items paid, the statement of account must identify the payee if the payee was identified on the item paid by the bank.

Effective: July 1, 2009.

Smith V

January 13, 2009, read first time and referred to Committee on Financial Institutions.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1424

A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 26-1-4-406 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 406. (a) A bank that
3 sends or makes available to a customer a statement of account showing
4 payment of items for the account shall **without charge** either return or
5 make available to the customer the items paid or provide information
6 in the statement of account sufficient to allow the customer reasonably
7 to identify the items paid. The statement of account provides sufficient
8 information if the item is described by item number, amount, ~~and~~ date
9 of payment, **and the payee if the payee is identified on the item.**
10 (b) If the items are not returned to the customer, the person retaining
11 the items shall either retain the items or, if the items are destroyed,
12 maintain the capacity to furnish legible copies of the items until the
13 expiration of seven (7) years after receipt of the items. A customer may
14 request an item from the bank that paid the item, and that bank must
15 provide in a reasonable time either the item or, if the item has been
16 destroyed or is not otherwise obtainable, a legible copy of the item.
17 (c) If a bank sends or makes available a statement of account or

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1 items under subsection (a), the customer must exercise reasonable
 2 promptness in examining the statement or the items to determine
 3 whether any payment was not authorized because of an alteration of an
 4 item or because a purported signature by or on behalf of the customer
 5 was not authorized. If, based on the statement or items provided, the
 6 customer should reasonably have discovered the unauthorized
 7 payment, the customer must promptly notify the bank of the relevant
 8 facts.

9 (d) If the bank proves that the customer failed, with respect to an
 10 item, to comply with the duties imposed on the customer by subsection
 11 (c), the customer is precluded from asserting against the bank:

12 (1) the customer's unauthorized signature or any alteration on the
 13 item, if the bank also proves that it suffered a loss by reason of the
 14 failure; and

15 (2) the customer's unauthorized signature or alteration by the
 16 same wrongdoer on any other item paid in good faith by the bank
 17 if the payment was made before the bank received notice from the
 18 customer of the unauthorized signature or alteration and after the
 19 customer had been afforded a reasonable period of time, not
 20 exceeding thirty (30) days, in which to examine the item or
 21 statement of account and notify the bank.

22 (e) If subsection (d) applies and the customer proves that the bank
 23 failed to exercise ordinary care in paying the item and that the failure
 24 substantially contributed to loss, the loss is allocated between the
 25 customer precluded and the bank asserting the preclusion according to
 26 the extent to which the failure of the customer to comply with
 27 subsection (c) and the failure of the bank to exercise ordinary care
 28 contributed to the loss. If the customer proves that the bank did not pay
 29 the item in good faith, the preclusion under subsection (d) does not
 30 apply.

31 (f) Without regard to care or lack of care of either the customer or
 32 the bank, a customer who does not within one (1) year after the
 33 statement or items are made available to the customer (subsection (a))
 34 discover and report the customer's unauthorized signature on or any
 35 alteration on the item is precluded from asserting against the bank the
 36 unauthorized signature or alteration. If there is a preclusion under this
 37 subsection, the payor bank may not recover for breach of warranty
 38 under IC 26-1-4-208 with respect to the unauthorized signature or
 39 alteration to which the preclusion applies.

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